

John H. Benge, Jr.
P.O. Box 500
Georgetown, DE 19947
January 26, 2006

FILED
JAN 31 2006
U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2006 JAN 31 PM 12:50

The Honorable Gregory M. Sleet
Associate Judge, United States District Court
United States Courthouse, Lockbox 19
844 North King Street
Wilmington, DE 19801

Re: Benge v. Kearney, Warden et al
Habeas Corpus Cases
Civil Action Nos. 05-0550(GMS)
05-0551(GMS)

Dear Judge Sleet:

I have this day forwarded to the Clerk's office a reply brief in Benge v. Kearney, Warden, et al, Civil Action No. 05-0550(GMS) together with a motion therein for a determination under Habeas Corpus Rule 8(a) and for summary judgment under FRCP Rule 56(a).

On the basis of the documents filed to date by each of the parties to the case, I believe that C.A. No. 05- 0550(GMS) is now ready for final disposition by the Court.

However, the same cannot be said for the companion case in C.A. No. 05-0551(GMS). I yesterday received a copy of Mr. Brown's motion for a third extension of time in which to file an answer in C.A. No. 05-0551(GMS). I must therefore apologize to the Court for the content of my letter of January 12, 2006. Obviously when I wrote that letter I had not received Mr. Brown's second motion for an extension of time nor the Court's order granting that motion – in fact, I still have not seen either.

I also wish to express my dismay that Mr. Brown seeks a third extension of time in which to file an answer as, he states, he has just now received a copy of a brief that was filed by me with the Court at the outset of this action in August of last year. I attempted to make it clear at the outset of this action that I had filed a brief with the petition; this I did by referencing the brief no less than five times in the petition and by sending a letter to the Department of Justice dated August 14, 2005 (copy enclosed) noting the filing of the brief and offering assistance if copies were not timely received. I followed up that letter with a further one in October of last year (copy enclosed).

I bring these matters to the attention of the Court only to show that despite my best efforts, it is now reported to the Court that a filing in August filing has fallen through the cracks. As I am certain that the Court will grant Mr. Brown's request for yet another extension, I do not want the record to be unclear in any respect as to my efforts to move forward with this matter as expeditiously as possible.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jeffrey B. Brown", with a long horizontal flourish extending to the right.

Cc: Thomas E. Brown, Esq.
Clerk of the Court
Encs.

John H. Bengé, Jr.
Sussex Correctional Inst.
P.O. Box 500
Georgetown, DE 19947
August 14, 2005

Gregory E. Smith, Esq.
Deputy Attorney General
Department of Justice
840 North French Street
Wilmington, DE 19801

Re: Bengé v. Kearney, Warden
Civil Action Nos. 05-550(GMS)
05-551(GMS)

Dear Mr. Smith:

This letter will serve to advise the Department of Justice that the above *habeas corpus* cases have been docketed in the United States District Court for the District of Delaware.

In due course, you should be receiving a copy of the petition filed in each of the cases together with a supporting brief and an appendix thereto. If for some reason those documents do not reach your office in the near future, please advise me of that fact and I will attempt to provide you with any of the filings that you lack.

Respectfully,

John H. Benge, Jr.
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947
October 17, 2005

Gregory E. Smith, Esq.
Department of Justice
840 North French Street
Wilmington, DE 19801

Re: Benge v. Kearney, Warden
Civil Action Nos. 05-550(GMS)
05-551(GMS)

Dear Mr. Smith:

As a courtesy, I enclose a copy of the order for service entered by Judge Sleet in Civil Action No. 05-0550. An identical order has been entered in the companion *habeas corpus* case, No. 05-0551.

Respectfully,

I/M: J. Benge BLDG: MERIT WEST
SUSSEX CORRECTIONAL INSTITUTION
P.O. BOX 500
GEORGETOWN, DELAWARE 19947

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